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Mr. Ronald Lorentzen
Acting Director
Office of Policy, Import Administration
U.S. Department of Commerce
Room 3713
14th & Constitution Avenues, NW
Washington, D.C. 20230
webmaster-support@its.doc.gov

Re: Unfair Trade Practices

Dear Mr. Lorentzen:

I am writing on behalf of the American Dehydrated Onion and Garlic Association (ADOGA) in response to the International Trade Administration's request for comment regarding unfair trade practices. (69 Fed. Reg. 30285, May 27, 2004.) The Association appreciates this opportunity to comment on trade practices that put this industry at a competitive disadvantage even in its home market.

ADOGA is comprised of two companies: Gilroy Foods of Gilroy, California, and Sensient Dehydrated Flavors of Turlock, California. The Association represents a majority of all dehydrated onion and garlic production in the United States. Dehydrated onion and garlic are classified in the US Harmonized Tariff Schedule at: 0712.20.20.00 (dried onions, powder or flour); 0712.20.40.00 (dried onions, other); 0712.90.40.20 (dried garlic, powder or flour); and 0712.90.40.40 (dried garlic, other).

Dehydrated onion and garlic are specialty crops. Specialty crops are a unique segment of US agriculture in that many of them have to rely on themselves for production and harvest materials, which program crop producers can buy at the

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local co-op or implement dealer. For example, seed garlic is developed and propagated by the companies themselves, specifically for dehydration use. Likewise, harvesting equipment designed and built by the industry engineers is used exclusively on onion and garlic bound for dehydration.

The dehydrated onion and garlic industry has been found to be import sensitive by the federal government since the tariffs on dehydrated onion and garlic were first imposed.

Dehydrated onion and garlic are separate products, but their production in the United States has developed interdependently. With the common process of dehydration for both vegetables, the industry benefits from certain economies of scale. Further, by processing a greater quantity of product for a longer period of time, the companies reduce the per-pound allocation of fixed costs. The ability to run both product lines during complementary harvest periods enhances industry performance, as high through-put is a characteristic of a healthy company. On the other hand, the integration of both crops makes the companies sensitive to imports of *both* dehydrated onion and dehydrated garlic. Little wonder then, that the industry treats a market challenge to either product as a potential threat to the entire industry. In that context, maintaining market share in the United States - the industry's largest market - is imperative to survival.

The attached table shows the extent to which Chinese imports of dehydrated garlic have increased in the last ten years. The US dehydrated garlic market is growing¹ but not to a level that warrants the massive influx of Chinese imports over the last ten years. At one point, the US industry served almost all US demand for dehydrated garlic (as it essentially does for dehydrated onion), but its market share has declined in direct correlation to increasing imports of Chinese dehydrated garlic.

Because China is the only significant import source, these gains in market share have been made solely at the expense of the domestic producers. Chinese imports are underselling US producers, which forces down domestic prices

¹ Economic Impact of a Possible Loss of Tariff Protection on the U.S. Dehydrated Onion and Garlic Industry, SRI Consulting, June 1997.

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or results in lost sales for domestic producers who cannot economically reduce their price.

How does Chinese dehydrated garlic undersell domestically produced dehydrated garlic when the imported product price bears the additional cost of shipping and the 29.8 percent US import duty?

The domestic industry is very concerned that China continues to provide export subsidies on dehydrated garlic, despite China's commitment to eliminate all export subsidies when it joined the World Trade Organization. Through market sources at home and abroad, the ADOGA members hear about various benefits provided to the Chinese dehydrated garlic industry, but has found it very difficult to obtain hard evidence to confirm that China is subsidizing its exports. The industry simply observes the incredible low price that Chinese dehydrated garlic is sold at in the US market to deduce that US and Chinese producers are not playing by the same rules. Even accounting for a lower cost of production in China - to the extent a non-market country has a true cost of production - the US price for imported Chinese dehydrated garlic is abnormally low.

ADOGA believes that China unfairly sells its dehydrated garlic in the United States at a rate created to undersell US producers, regardless of the cost of production. Reported Chinese subsidies such as a three year tax waiver for exporting interests and a three percent export rebate only encourage exporters to undersell US product.

Other unfair means employed by Chinese producers/importers to achieve lower prices include transshipment of dehydrated garlic into the United States through countries with duty-free access to the US market. US Census Bureau statistics have shown dehydrated garlic imports from Puerto Rico, Canada and Israel, although none of these countries have a dehydrated garlic industry. The industry can only expect to see more Chinese transshipment through countries with duty-free access to the US market as the United States continues to execute more and more free trade agreements.

Another means used by Chinese importers to reduce product price involves selling to an entity in the United States at an artificially low value and

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declaring that value on the US Customs documentation to reduce the amount of US duty due. When an import duty is at 29.8 percent, as it is for dehydrated garlic, it pays to find ways to lessen the amount. Understating the value of goods entering the United States is both unfair and illegal, but it is also very hard to recognize when the sale is to a complicit party in the United States. Even if the deception is recognized on one shipment, pursuing every individual shipment or shipper is problematic. (The fresh garlic industry has found that Chinese producers and shippers change identities often to achieve trade advantages in the new shipper reviews. That could also occur when one shipper is tagged as a transshipper or has a history of undervaluation.)

The SRI Consulting study referenced above also cited free improvements to agricultural infrastructure and technological assistance as other governmental benefits enjoyed by Chinese garlic producers and dehydrators. At that time (1994), there were some 100-120 dehydration plants in China, a number that has substantially increased since then. Of the 25 specific plants identified in the SRI report, 22 were collectively owned and the other three were state owned. State owned plants offer an undeniable competitive advantage compared to private industry plants. Collectively owned enterprises may also receive loans at preferred interest rates as an enticement to export or to maintain that form of ownership.

In addition, the fact that China pegs its currency to the US dollar and does not let it float simply exacerbates the pricing situation, as it makes Chinese products cheaper in the United States than they would be if the currency was set. This is just another example of how Chinese policies negatively affect US producers.

US dehydrated garlic producers have lost substantial market share to Chinese imports over the years, even after China's accession to the WTO. The unfair trade practices noted by ADOGA continue to put the domestic dehydrated onion and garlic industry at a disadvantage. Since the US government refuses to offer much protection to its import sensitive domestic industries (other than AD/CVD actions), it must work bilaterally to ensure that China abandons its unfair practices.

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Conclusion

The Association appreciates this opportunity to discuss the unfair trade practices utilized by Chinese producers and exporters to undersell US-produced dehydrated onion and garlic in the US market (and all over the world). These practices must be stopped if the US government cares about the future of this unique agricultural industry in this country. I would be happy to discuss this further with you or provide additional information, should you desire.

Sincerely,

Irene Ringwood
DC Counsel to ADOGA

Chinese Imports of Dehydrated Garlic - Value and Quantity

<u>Chinese imports</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Dried garlic, powder (0712.90.40.20)	\$1,766 2,725.7	\$1,565 2,336.8	\$2,325 3,240.6	\$846 1,504.8	\$4,072 7,682.6	\$6,465 6,916.1	\$3,005 3,905.0	\$3,307 5,816.2	\$5,105 10,077.2	\$4,464 8,440.1
Dried garlic, other (0712.90.40.40)	\$3,947 5,041.4	\$2,863 5,283.8	\$2,701 5,332.6	\$2,154 5,817.1	\$12,201 22,746.0	\$13,641 20,572.8	\$7,718 15,848.0	\$7,941 16,894.5	\$7,195 15,752.7	\$10,533 25,925.8

Value in thousands of dollars.

Quantity in metric tons.

Source: US Census Bureau